

September 28, 2005

The Regular Meeting of the Rockingham County Board of Supervisors was held on Wednesday, September 28, 2005, at 6:00 p.m. at the Rockingham County Administration Center, Harrisonburg, Virginia. The following members were present:

PABLO CUEVAS, Election District #1  
CHARLES W. AHREND, Election District #2  
DEE E. FLOYD, Election District #3  
WILLIAM B. KYGER, JR., Election District #4  
MICHAEL A. BREEDEN, Election District #5

Also present:

JOSEPH S. PAXTON, County Administrator  
G. CHRIS BROWN, County Attorney  
JAMES L. ALLMENDINGER, Director of Finance  
RHONDA G. HENDERSON, Director of Planning  
JENNIFER M. HOOVER, Director of Public Works  
DIANA C. STULTZ, Zoning Administrator  
DOTTIE L. BOWEN, Deputy Clerk  
DONALD F. KOMARA, Resident Engineer  
Virginia Department of Transportation

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**CALL TO ORDER**  
**PLEDGE OF ALLEGIANCE**  
**INVOCATION.**

Chairman Cuevas called the meeting to order at 6:00 p.m.

Administrator Paxton led the Pledge of Allegiance, and Chairman Cuevas gave the Invocation.

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**RECOGNITION OF STUDENTS.**

The Board welcomed students from Spotswood High School, Bridgewater College and Henley Middle School in Charlottesville.

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**APPROVAL OF MINUTES.**

On motion by Supervisor Ahrend, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the minutes of the Regular Meeting held on September 14, 2005, with corrections to pages 5 and 21.

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**TRANSPORTATION DEPARTMENT.**

The Board heard Mr. Komara's report on the activities of the Transportation Department.

Supervisor Kyger noted that he and Mr. Komara would meet with citizens, including Belmont residents, on September 29, 2005.

In response to a question from Supervisor Breeden, Mr. Komara advised the shoulders on Captain Yancey Road would receive attention.

Supervisor Floyd brought to Mr. Komara's attention problems in Lakewood concerning missing signs and excessive speed.

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**SOUTHEAST CONNECTOR STUDY.**

The Board heard an update on the Southeast Connector Study, presented by James O. Clarke, VDOT, including a review of (a) the activities considered in the study (coordination, traffic, environmental issues, documentation); (b) the purpose and need (east-west mobility, accommodation of traffic from future growth); (c) the environmental/engineering issues (historic properties, agricultural properties, landfill, homes and businesses, terrain, existing transportation network); (d) alternatives (conceptual, screening, candidate); and (e) next steps (completion of draft environmental impact statement, public hearing location, Commonwealth Transportation Board decision, final Environmental Impact Statement, Federal Highway Administration record of decision).

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**JAMESTOWN 2007.**

The Board heard a presentation by Ms. Glenda Rooney, Co-Chair, Harrisonburg-Rockingham Community Committee for Jamestown 2007, presenting a proposal for support of the legacy projects for the celebration of the 400<sup>th</sup> anniversary of Jamestown, VA., and as part of the projects, CD-ROM driving tours down U.S. 11, Route 42 and Fadley Road. The total cost of the CD-Rom project will be \$14,000.

On motion by Supervisor Breeden, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board appropriated \$7,000 for this project from Economic Development funds.

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**PUBLIC HEARING - RESOLUTION NO. 05-26 AUTHORIZING \$11M IN VPSA BONDS FOR ELKTON AND MONTEVIDEO MIDDLE SCHOOLS.**

At 6:50 p.m., Chairman Cuevas opened the meeting for a public hearing with respect to the issuance, sale and award of general obligation school bonds by Rockingham County, Virginia, in the maximum principal amount not to exceed \$11,000,000 to be sold to the Virginia Public School Authority. Such bond funds from the VPSA, together with any other lawfully available funds and such lump sum cash payments from DOE, would be used by the Rockingham County Public Schools to provide long-term financing for the costs incurred for capital projects for school purposes in the County, including interim financing therefore, in connection with Montevideo Middle School and Elkton Middle School.

There were no requests to speak on this proposal.

At 6:55 p.m., Chairman Cuevas closed the public hearing and called the regular meeting back to order.

On motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following resolution No. 05-26.

**RESOLUTION AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$11,000,000 GENERAL OBLIGATION SCHOOL BONDS OF THE COUNTY OF ROCKINGHAM, VIRGINIA, SERIES 2005 TO BE SOLD TO THE VIRGINIA PUBLIC SCHOOL AUTHORITY AND PROVIDING FOR THE FORM AND DETAILS THEREOF.**

**WHEREAS**, in October, 2003, the Commonwealth of Virginia Board of Education (the "Board of Education") placed the applications (the "Applications") of the School Board of Rockingham County, Virginia (the "School Board"), for loans in connection with Elkton Middle School and Montevideo Middle School in the aggregate amount of \$13,600,000 (the "Literary Fund Loans") from the Literary Fund, a permanent trust fund established by the Constitution of Virginia (the "Literary Fund"), to pay the costs for capital projects for the

acquisition, construction, reconstruction, expansion and/or equipping of such school facilities in Rockingham County, Virginia (the "County"), on the First Priority Waiting List; and

**WHEREAS**, the costs for capital projects for the acquisition, construction, reconstruction, expansion and/or equipping of capital projects for school purposes in the County, including but not limited to, Elkton Middle School and Montevideo Middle School, and further including any interim financing in connection therewith, are collectively referenced hereinafter as the "Project"; and

**WHEREAS**, the Board of Education was to have approved the release of Literary Fund moneys to the School Board and make a commitment to loan such moneys to the School Board (the "Commitment") within one (1) year of placement of the Applications on the First Priority Waiting List upon receipt of the Literary Fund of an unencumbered sum available at least equal to the amount of the Applications and the approval, by the Board of Education, of the Applications as having met all conditions for a loan from the Literary Fund; and

**WHEREAS**, the Board of Education was thereafter to have given advances on the amount of the Commitment for the Literary Fund Loans to the School Board, as construction, reconstruction and expansion of the Project progressed, in exchange for temporary notes from the School Board to the Literary Fund (the "Temporary Notes") for the amounts so advanced; and

**WHEREAS**, after the completion of the Project and the advance of the total amount of the Commitment, the Temporary Notes were to have been consolidated into permanent loan notes of the School Board to the Literary Fund (collectively, the "Literary Fund Obligations") which were to evidence the obligations of the School Board to repay the Literary Fund Loans; and

**WHEREAS**, the Literary Fund Obligations were to have borne interest at three percent (3%) per annum and mature in annual installments for a period of twenty (20) years, respectively; and

**WHEREAS**, the County and the School Board, respectively, requested the assistance of the Industrial Development Authority of the Town of Broadway, Virginia (the "Authority") to issue its \$8,500,000 Industrial Development Authority of Town of Broadway, Virginia, Lease Revenue Note, Series 2004 ("Bank-Qualified") (the "Note"), and the Authority issued the Note on April 29, 2004, in order to provide interim financing to the School Board to pay a portion of the costs of the Project; and

**WHEREAS**, in connection with the 2005 Interest Rate Subsidy Program (the "Program"), the Virginia Public School Authority (the "VPSA") has offered to purchase general obligation school bonds of the County, and the Board of Education has offered to pay, to the County, lump sum cash payments (the "Lump Sum Cash Payments") equal to the sum of (i) net present value difference, determined on the date on which the VPSA sells its bonds, between the weighted average interest rate that the general obligation school bonds of the County will bear upon sale to the VPSA and the interest rate that the Literary Fund Obligations would have borne plus (ii) an allowance for the costs of issuing such bonds of the County (the "Issuance Expense Allowance"); and

**WHEREAS**, the School Board of the County has, by resolution duly adopted on September 13, 2005, requested and consented to the authorization of the issuance of the Bonds (as hereinafter defined) in an aggregate principal amount not to exceed \$11,000,000; and

**WHEREAS**, the Board of Supervisors (the "Board") of the County of Rockingham, Virginia (the "County"), has determined that it is necessary and expedient to borrow not to exceed \$11,000,000 and to issue its general obligation school bonds for the purposes of paying the outstanding amount of the Note and providing permanent financing for certain capital projects for school purposes; and

**WHEREAS**, the County has held a public hearing, duly noticed, on September 28, 2005, on the issuance of the Bonds (as defined below) in accordance with the requirements of Section 15.2-2606, Code of Virginia 1950, as amended (the "Virginia Code").

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF ROCKINGHAM, VIRGINIA:**

1. **Authorization of Bonds and Use of Proceeds.** The Board hereby determines that it is advisable to contract a debt and issue and sell its general obligation school bonds in an aggregate principal amount not to exceed \$11,000,000 (the "Bonds") for the purpose of financing the Project. The Board hereby authorizes the issuance and sale of the Bonds in the form and upon the terms established pursuant to this Resolution.

2. **Sale of the Bonds.** It is determined to be in the best interest of the County to accept the offer of the Virginia Public School Authority (the "VPSA") to purchase from the County, and to sell to the VPSA, the Bonds at a price, determined by the VPSA to be fair and accepted by the Chairman of the Board and the County Administrator. The Chairman of the Board, the County Administrator, and such officer or officers of the County as either may designate are hereby authorized and directed to enter into a Bonds Sale Agreement dated as of September 28, 2005, with the VPSA providing for the sale of the Bonds to the VPSA in substantially the form submitted to the Board at this meeting, which form is hereby approved (the "Bonds Sale Agreement").

3. **Details of the Bonds.** The Bonds shall be issuable in fully registered form; shall be dated the date of issuance and delivery of the Bonds; shall be designated "Rockingham County, Virginia General Obligation School Bonds, Series 2005"; shall bear interest from the date of delivery thereof payable semi-annually on each January 15 and July 15 beginning July 15, 2006 (each an "Interest Payment Date"), at the rates established in accordance with Section 4 of this Resolution; and shall mature on July 15 in the years (each a "Principal Payment Date") and in the amounts set forth on Schedule I attached thereto (the "Principal Installments"), subject to the provisions of Section 4 of this Resolution.

4. **Interest Rates and Principal Installments.** The County Administrator is hereby authorized and directed to accept the interest rates on the Bonds established by the VPSA, provided that each interest rate shall be ten one-hundredths of one percent (0.10%) over the interest rate to be paid by the VPSA for the corresponding principal payment date of the bonds to be issued by the VPSA (the "VPSA Bonds"), a portion of the proceeds of which will be used to purchase the Bonds, and provided further, that the true interest cost of the Bonds does not exceed six and fifty one-hundredths percent (6.50 %) per annum. The Interest Payment Dates and the Principal Installments are subject to change at the request of the VPSA. The County Administrator is hereby authorized and directed to accept changes in the Interest Payment Dates and the Principal Installments at the request of the VPSA, provided that the aggregate principal amount of the Bonds shall not exceed the amount authorized by this Resolution. The execution and delivery of the Bonds as described in Section 8 hereof shall conclusively evidence such interest rates established by the VPSA and Interest Payment Dates and the Principal Installments requested by the VPSA as having been so accepted as authorized by this Resolution.

5. **Form of the Bonds.** The Bonds shall be initially in the form of a single, temporary typewritten bond substantially in the form attached hereto as Exhibit A.

6. **Payment; Paying Agent and Bond Registrar.** The following provisions shall apply to the Bonds:

(a) For as long as the VPSA is the registered owner of the Bonds, all payments of principal, premium, if any, and interest on the Bonds shall be made in immediately available funds to the VPSA at, or before 11:00 a.m. on the applicable Interest Payment Date or Principal Payment Date, or if such date is not a business day for Virginia banks or for the Commonwealth of Virginia, then at or before 11:00 a.m. on the business day next preceding such Interest Payment Date or Principal Payment Date.

(b) All overdue payments of principal and, to the extent permitted by law, interest shall bear interest at the applicable interest rate or rates on the Bonds.

(c) \_\_\_\_\_, \_\_\_\_\_, Virginia, is designated as Bond Registrar and Paying Agent for the Bonds.

7. **No Redemption or Prepayment.** The Principal Installments of the Bonds shall not be subject to redemption or prepayment. Furthermore, the Board covenants, on behalf of the County, not to refund or refinance the Bonds without first obtaining the written consent of the VPSA or the registered owner of the Bonds.

8. **Execution of the Bonds.** The Chairman or Vice Chairman and the Clerk or any Deputy Clerk of the Board are authorized and directed to execute and deliver the Bonds and to affix the seal of the County thereto.

9. **Pledge of Full Faith and Credit.** For the prompt payment of the principal of and premium, if any, and the interest on the Bonds as the same shall become due, the full faith and credit of the County are hereby irrevocably pledged, and in each year while any of the Bonds shall be outstanding there shall be levied and collected in accordance with law an annual *ad valorem* tax upon all taxable property in the County subject to local taxation sufficient in amount to provide for the payment of the principal of and premium, if any, and the interest on the Bonds as such principal, premium, if any, and interest shall become due, which tax shall be without limitation as to rate or amount and in addition to all other taxes authorized to be levied in the County to the extent other funds of the County are not lawfully available and appropriated for such purpose.

10. **Use of Proceeds Certificate and Certificate as to Non-Arbitrage.** The Chairman of the Board, the County Administrator and such officer or officers of the County as either may designate are hereby authorized and directed to execute a Certificate as to Non-Arbitrage and a Use of Proceeds Certificate each setting forth the expected use and investment of the proceeds of the Bonds and containing such covenants as may be necessary in order to show compliance with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and applicable regulations relating to the exclusion from gross income of interest on the Bonds and on the VPSA Bonds except as provided below. The Board covenants on behalf of the County that (i) the proceeds from the issuance and sale of the Bonds will be invested and expended as set forth in such Certificate as to Non-Arbitrage and such Use of Proceeds Certificate and that the County shall comply with the other covenants and representations contained therein and (ii) the County shall comply with the provisions of the Code so that interest on the Bonds and on the VPSA Bonds will remain excludable from gross income for Federal income tax purposes.

11. **State Non-Arbitrage Program; Proceeds Agreement.** The Board hereby determines that it is in the best interests of the County to authorize and direct the County Treasurer to participate in the State Non-Arbitrage Program in connection with the Bonds, as may be necessary or convenient in connection with the Bonds. The Chairman of the Board, the County Administrator and such officer or officers of the County as either may designate are hereby authorized and directed to execute and deliver a Proceeds Agreement with respect to the deposit and investment of proceeds of the Bonds by and among the County, the other participants in the sale of the VPSA Bonds, the VPSA, the investment manager and the depository, substantially in the form submitted to the Board at this meeting, which form is hereby approved.

12. **Continuing Disclosure Agreement.** The Chairman of the Board, the County Administrator and such officer or officers of the County as either may designate are hereby authorized and directed to execute a Continuing Disclosure Agreement, as set forth in Appendix F to the Bond Sale Agreement, setting forth the reports and notices to be filed by the County and containing such covenants as may be necessary in order to show compliance with the provisions of the Securities and Exchange Commission Rule 15c2-12 and directed to make all filings required by Section 3 of the Bond Sale Agreement should the County be determined by the VPSA to be a MOP (as defined in the Continuing Disclosure Agreement).

13. **Filing of Resolution.** The appropriate officers or agents of the County are hereby authorized and directed to cause a certified copy of this Resolution to be filed with the Circuit Court of the County.
14. **Further Actions.** The members of the Board and all officers, employees and agents of the County are hereby authorized to take such action as they or any one of them may consider necessary or desirable in connection with the issuance and sale of the Bonds and any such action previously taken is hereby ratified and confirmed.
15. **Effective Date.** This Resolution shall take effect immediately.

Approved:     September 28, 2005

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Chairman, Board of Supervisors of  
Rockingham County, Virginia

**CERTIFICATE OF VOTES**

The undersigned Clerk of the Board of Supervisors of Rockingham County, Virginia, hereby certifies that the foregoing constitutes a true and correct copy of the Resolution duly adopted by the Board of Supervisors at a regular meeting duly held and called on September 28, 2005, after the holding of a public hearing therefore. A record of the roll-call vote by the Board of Supervisors is as follows:

	AYE	NAY	ABSTAIN	ABSENT
Pablo Cuevas, Chairman	X			
Dee Floyd	X			
Michael Breeden	X			
Charles W. Ahrend	X			
William B. Kyger	X			

Dated: September 28, 2005

[SEAL]

\_\_\_\_\_  
Clerk, Board of Supervisors of  
Rockingham County, Virginia

EXHIBIT A

(FORM OF TEMPORARY BOND)

NO. TS-1  
\$ \_\_\_\_\_

UNITED STATES OF AMERICA  
COMMONWEALTH OF VIRGINIA  
COUNTY OF ROCKINGHAM  
General Obligation School Bond

Series 2005

The **COUNTY OF ROCKINGHAM, VIRGINIA** (the "County"), for value received, hereby acknowledges itself indebted and promises to pay to the **VIRGINIA PUBLIC SCHOOL AUTHORITY** the principal amount of \_\_\_\_\_ MILLION \_\_\_\_\_ HUNDRED THOUSAND DOLLARS (\$\_\_\_\_\_), in annual installments in the amounts set forth on Schedule I attached hereto payable on July 15, 2006 and annually on July 15 thereafter to and including July 15, 2025 (each a "Principal Payment Date"), together with interest from the date of this Bond on the unpaid installments, payable semi-annually on January 15 and July 15 of each year, commencing on July 15, 2006 (each an "Interest Payment Date"; together with any Principal Payment Date, a "Payment Date"), at the rates per annum set forth on Schedule I attached hereto. Both principal of and interest on this Bond are payable in lawful money of the United States of America.

For as long as the Virginia Public School Authority is the registered owner of this Bond, \_\_\_\_\_ Bank, as bond registrar (the "Bond Registrar"), shall make all payments of principal, premium, if any, and interest on this Bond, without the presentation or surrender hereof, to the Virginia Public School Authority, in immediately available funds at or before 11:00 a.m. on the applicable Payment Date or date fixed for prepayment or redemption. If a Payment Date or date fixed for prepayment or redemption is not a business day for banks in the Commonwealth of Virginia or for the Commonwealth of Virginia, then the payment of principal, premium, if any, or interest on this Bond shall be made in immediately available funds at or before 11:00 a.m. on the business day next preceding the scheduled Payment Date or date fixed for prepayment or redemption. Upon receipt by the registered owner of this Bond of said payments of principal, premium, if any, and interest, written acknowledgment of the receipt thereof shall be given promptly to the Bond Registrar, and the County shall be fully discharged of its obligation on this Bond to the extent of the payment so made. Upon final payment, this Bond shall be surrendered to the Bond Registrar for cancellation.

The full faith and credit of the County are irrevocably pledged for the payment of the principal of and the premium, if any, and interest on this Bond. The resolution duly adopted by the Board of Supervisors on September 28, 2005, authorizing the issuance of the Bonds



provides, and Section 15.2-2624, Code of Virginia 1950, as amended, requires, that there shall be levied and collected an annual tax upon all taxable property in the County subject to local taxation sufficient to provide for the payment of the principal, premium, if any, and interest on this Bond as the same shall become due which tax shall be without limitation as to rate or amount and shall be in addition to all other taxes authorized to be levied in the County to the extent other funds of the County are not lawfully available and appropriated for such purpose.

This Bond is duly authorized and issued in compliance with and pursuant to the Constitution and laws of the Commonwealth of Virginia, including the Public Finance Act of 1991, Chapter 26, Title 15.2, Code of Virginia 1950, as amended, and resolutions duly adopted by the Board of County Supervisors of the County and the School Board of the County to provide funds for capital projects for school purposes.

This Bond may be exchanged without cost, on twenty (20) days written notice from the Virginia Public School Authority, at the office of the Bond Registrar on one or more occasions for two or more temporary bonds or definitive bonds in fully registered form in denominations of \$5,000 and whole multiples thereof, and; in any case, having an equal aggregate principal amount having maturities and bearing interest at rates corresponding to the maturities of and the interest rates on the installments of principal of this Bond then unpaid. This Bond is registered in the name of the Virginia Public School Authority on the books of the County kept by the Bond Registrar, and the transfer of this Bond may be effected by the registered owner of this Bond only upon due execution of an assignment by such registered owner. Upon receipt of such assignment and the surrender of this Bond, the Bond Registrar shall exchange this Bond for definitive Bonds as hereinabove provided, such definitive Bonds to be registered on such registration books in the name of the assignee or assignees named in such assignment.

The principal installments of this Bond are not subject to redemption or prepayment.

All acts, conditions and things required by the Constitution and laws of the Commonwealth of Virginia to happen, exist or be performed precedent to and in the issuance of this Bond have happened, exist and have been performed in due time, form and manner as so required, and this Bond, together with all other indebtedness of the County, is

within every debt and other limit prescribed by the Constitution and laws of the Commonwealth of Virginia.

**IN WITNESS WHEREOF**, the Board of Supervisors of the County of Rockingham has caused this Bond to be issued in the name of the County of Rockingham, Virginia, to be signed by its Chairman or Vice-Chairman, its seal to be affixed hereto and attested by the signature of its Clerk or any of its Deputy Clerks, and this Bond to be dated November 10, 2005.

**COUNTY OF ROCKINGHAM, VIRGINIA**

*[SEAL]*

\_\_\_\_\_  
Chairman, Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk, Board of Supervisors

**SCHEDULE I**  
(To Be Attached)

**ASSIGNMENT**

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(PLEASE PRINT OR TYPEWRITE NAME AND ADDRESS, INCLUDING ZIP CODE, OF ASSIGNEE)

PLEASE INSERT SOCIAL SECURITY OR OTHER IDENTIFYING NUMBER OF ASSIGNEE: \_\_\_\_\_

the within Bond and irrevocably constitutes and appoints

\_\_\_\_\_ attorney to exchange said Bond for definitive bonds in lieu of which this Bond is issued and to register the transfer of

such definitive bonds on the books kept for registration thereof, with full power of substitution in the premises.

Date: \_\_\_\_\_  
Registered Owner

Signature Guaranteed: \_\_\_\_\_  
(NOTICE: Signature(s) must be guaranteed by an “eligible guarantor institution” meeting the requirements of the Bond Registrar which requirements will include Membership or participation in STAMP or such other “signature guarantee program” as may be determined by the Bond Registrar in addition to, or in substitution for, STAMP, all in accordance with the Securities Exchange Act of 1934, as amended.)

(NOTICE: The signature above must correspond with the name of the Registered Owner as it appears on the front of this Bond in every particular, without alteration or change.)

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**REPORT - HARRISONBURG-ROCKINGHAM WEED & SEED PROGRAM.**

The Board heard a report by Dr. Ramona Rogers, Program Coordinator, concerning the Harrisonburg-Rockingham Weed & Seed Program, including an overview of the Community Capacity Development Office National Conference, federal funding of the Weed and Seed Grant for the fifth and final year for the current site, present activities and initiatives of the Weed and Seed Program, rationale for a new site and update on the application process, and an updated financial report.

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**PUBLIC HEARING - SPECIAL USE PERMIT REQUESTS.**

At 7:00 p.m., Chairman Cuevas declared the meeting open for a public hearing on the following special use permit requests.

Ms. Stultz reviewed the requests and staff’s recommended conditions, should the requests be approved by the Board.

S05-54, request of Randolph H. & Pamela F. Collins, 1299 North River Road, Mt. Crawford, for a residence involving a division of land from grantor to self on property located on the northwest corner of North River Road (Route 867) at its intersection with Fairview Road (Route 693) in Election District #4, zoned A1. Tax Map #137-(A)-95B.

Mr. Collins told the Board he wanted to build another home so he would have "a little less property to take care of."

No objections were raised.

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S05-55, request of Robert F. & Linda W. Dinsmore, 11840 Turleytown Road, Broadway, for a second residence on property located on the east side of Turleytown Road (Route 613) approximately 850 feet north of Fort Turley Trail (Route 878) in Election District #2, zoned A2. Tax Map #50-(A)-41.

Mr. Dinsmore said the division would be the "only way" he could "keep the old place."

John Hodges, neighbor, said he was in favor of the request.

No objections were raised.

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S05-56, request of Sylvia King, 8426 E. Timber Ridge Road, Mt. Crawford, for a country inn on property located on the west side of East Timber Ridge Road (Route 668) approximately 1/4 mile southwest of Diehls Ford Road (Route 665) in Election District #4, zoned A2. Tax Map #151-(3)-2A.

The applicant was present to answer questions.

No objections were raised.

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S05-57, request of Phillip D. & Ramona S. Evans, 5455 West Dry River Road, Dayton, for residences involving a division of land (approval of residence on the divided parcel and the residual parcel) on property located on the east side of West Dry River Road (Route 738) approximately 400 feet south of Honey Run Road (Route 743) in Election District #4, zoned A1. Tax Map #106-(A)-52A.

Mr. Evans explained that his neighbor wanted to buy the field to incorporate into his farm, keeping the property in its present use. Because of financing, he wanted to purchase it as a separate tract of land.

No objections were raised.

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S05-58, request of Philip A. Corbo, 685 Martz Road, Lacey Spring, for a second residence on property located on the north side of Martz Road (Route 806) approximately 1/2 mile east of North Valley Pike (Route 11) in Election District #1, zoned A2. Tax Map #81-(A)-133.

Mr. Corbo explained that he wanted to build a house for his son.

No objections were raised.

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S05-59, request of Timothy I. Mumbauer, 3754 Oak Leaf Lane, Broadway, for a residence involving a division of land to non-family member on property located on the south side of Trissels Road (Route 809) approximately 2/10 mile east of Woodlands Church Road (Route 617) in Election District #2, zoned A1.

Mr. Mumbauer said the entrance would come across the neighbor's property to the west who has agreed to grant the right-of-way. He noted that the only other neighbor across the road has also voiced approval.

No objections were raised.

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At 7:34 p.m., Chairman Cuevas closed the public hearing and called the regular meeting back to order.

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Supervisor Kyger pointed out that the Board seldom approved non-family divisions for A1 zoned land. However, in considering the Collins request, he noted the total number of acres and the fact that the request was for a family division in order to allow the applicants to downsize to a more manageable retirement home. He reminded the Board that the applicants would be dividing the land to themselves and selling the front part which would leave a large tract of farmable land. He noted a reason for the special use permit process was to allow consideration of special circumstances. He moved to approve the request, subject to the conditions recommended by staff. Supervisor Ahrend seconded the request.

Chairman Cuevas said he could not support the motion because he did not see the circumstances that would warrant approval, noting that retirement is not a land use issue.

The motion carried by a vote of 3 to 2, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS -

NO; FLOYD - NO; KYGER - AYE; subject to the following conditions, to approve S05-54, request of Randolph H. & Pamela F. Collins, 1299 North River Road, Mt. Crawford, for a residence involving a division of land from grantor to self on property located on the northwest corner of North River Road (Route 867) at its intersection with Fairview Road (Route 693) in Election District #4, zoned A1.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Residence shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
- (3) An entrance permit shall be obtained from VDOT's Harrisonburg Residency and shall be submitted to the Community Development Department prior to deed exception approval.
- (4) VDOT reserves the right to require future entrance upgrades should conditions warrant.
- (5) This permit is contingent upon applicant obtaining a sewage disposal system permit from the Health Department. A copy of said permit shall be presented to the Community Development Department prior to deed exception approval.
- (6) If deed exception is made within one year from date of approval of the special use permit, the residence on the property shall be exempt from the one year completion date.
- (7) This residence shall not be used for rental purposes.
- (8) This residence shall not be occupied until a certificate of occupancy is issued from the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

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On motion by Supervisor Ahrend, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S05-55, request of Robert F. & Linda W. Dinsmore, 11840 Turleytown Road, Broadway, for a second residence on property located on the east side of Turleytown Road (Route 613) approximately 850 feet north of Fort Turley Trail (Route 878) in Election District #2, zoned A2.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Any remodeling would require a building permit and the proper permits shall be obtained.
- (3) Neither residence shall be used for rental purposes except the old house on the property can be leased to

the hunt club members during hunting season if so desired.

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On motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved S05-56, request of Sylvia King, 8426 E. Timber Ridge Road, Mt. Crawford, for a country inn on property located on the west side of East Timber Ridge Road (Route 668) approximately 1/4 mile southwest of Diehls Ford Road (Route 665) in Election District #4, zoned A2.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Any repairs or alterations shall comply with the Statewide Building Code and the proper permits shall be obtained.
- (3) VDOT reserves the right to require future entrance upgrades should conditions warrant.

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On motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S05-57, request of Phillip D. & Ramona S. Evans, 5455 West Dry River Road, Dayton, for residences involving a division of land (approval of residence on the divided parcel and the residual parcel) on property located on the east side of West Dry River Road (Route 738) approximately 400 feet south of Honey Run Road (Route 743) in Election District #4, zoned A1. Tax Map #106-(A)-52A.

- (1) Use shall be located in accordance with plot plan as approved.
- (2) Alterations to the existing buildings shall comply with the Virginia Uniform Statewide Building Code, and change of use permits shall be obtained.
- (3) A commercial entrance permit shall be obtained from VDOT's Residency Office to upgrade the existing entrance to commercial entrance standards. Said permit shall be submitted to the Zoning Office prior to obtaining final zoning approval.
- (4) According to the Health Department the storage facility will not require sewage disposal. However, the garage shall require approved sewage disposal as required by Health Department. A copy of the approved septic permit shall be submitted to the Zoning Office prior to final zoning approval.

- (5) Applicant shall submit a more detailed site plan to the Zoning Office for review and approval prior to issuance of final zoning approval.
- (6) With regard to the garage, all work shall be done inside the building, and there shall be no accumulation of parts or materials located outside.
- (7) No junk, trash or debris shall be allowed to accumulate on the premises.
- (8) All vehicles associated with the garage shall be located within the building, and there shall be no outside storage of vehicles.
- (9) All storage associated with the storage units shall be located within the buildings. There shall be no outside storage.
- (10) Applicant shall not use the property for the commercial storage of explosives, fuels or other flammable materials, or goods or products that contain, emit, produce, or generate toxic or hazardous substances in such quantities or in such manner which would require reporting under The Emergency Planning and Community Right to Know Act, 42 USC §11001 et seq. or The Comprehensive Environmental Response, Compensation and Liability Act, 42 USC §9601 et seq.
- (11) On premise advertising sign shall comply with the Rockingham County Code, and a building permit shall be obtained for any sign.
- (12) Off-street parking shall comply with the Rockingham County Code.
- (13) This business shall not begin operation until such time as a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

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At the request of Chairman Cuevas, on motion by Supervisor Ahrend, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S05-58, request of Philip A. Corbo, 685 Martz Road, Lacey Spring, for a second residence on property located on the north side of Martz Road (Route 806) approximately 1/2 mile east of North Valley Pike (Route 11) in Election District #1, zoned A2. Tax Map #81-(A)-133.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Residence shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
- (3) VDOT reserves the right to require future entrance upgrades should conditions warrant.



- (4) This permit is contingent upon applicant obtaining a sewage disposal system permit from the Health Department. A copy of said permit shall be presented to the Community Development Department prior to final zoning approval for a building permit.
- (5) This residence shall not be used for rental purposes.
- (6) If in granting the building permit for the residence there is any question as to whether the residence shall be located within the 100-year floodplain, the County shall require elevation shots to determine floodplain.
- (7) This residence shall not be occupied until a certificate of occupancy is issued from the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

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Noting that the Mumbauer property was not good A1 land, on motion by Supervisor Ahrend, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S05-59, request of Timothy I. Mumbauer, 3754 Oak Leaf Lane, Broadway, for a residence involving a division of land to non-family member on property located on the south side of Trissels Road (Route 809) approximately 2/10 mile east of Woodlands Church Road (Route 617) in Election District #2, zoned A1. Tax Map #65-(A)-8.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Residence shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
- (3) The entrance shall be located across the adjoining landowner to the west as approved by VDOT. That landowner shall become a party to the deed granting an easement across his property.
- (4) A copy of the entrance permit shall be submitted to the Community Development Department prior to final zoning approval for permits. Either the entrance permit or a letter from VDOT approving the entrance shall be submitted prior to deed exception approval.
- (5) This permit is contingent upon applicant obtaining a sewage disposal system permit from the Health Department. A copy of said permit shall be presented to the Community Development Department prior to deed exception approval.
- (6) This residence shall not be used for rental purposes.
- (7) This residence shall not be occupied until a certificate of occupancy is issued from the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

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**PUBLIC HEARING - REZONING REQUESTS.**

At 7:40 p.m., Chairman Cuevas declared the meeting open for a public hearing on the following rezoning requests.

Ms. Henderson reviewed the requests and staff's recommended conditions, should the requests be approved by the Board.

RZ05-15, request of Mountain View Apartments, LLC, c/o Ingram-Hagen & Co., PLC, 140 Old Bridgewater Road, to rezone 25.155 acres from A2 (General Agricultural) to R3-C (General Residential with Conditions) on tax parcel 125 (A) 3. The site is located on the west side of Port Republic Road (Route 253) approximately 915 feet north of Stone Spring Road (Route 726), Election District 3. The Comprehensive Plan designates this area as Agricultural Reserve in 2010. The applicant plans to construct professional offices and duplexes. R3 allows 7.9 duplex units per acre.

On, June 2, 2005, staff reported, "This area has significant issues regarding water pressure and fire flow and the capacity of the sewer receiving lines. Staff recommends tabling this request to allow more time to address these concerns."

On June 7, 2005, the Planning Commission concurred with staff's recommendation and tabled the request. The Commission stated that tabling this request would give the applicant more time to address issues related with this proposed rezoning.

On September 7, 2005, the Planning Commission recommended approval of this request by a 4 - 0 vote and requested the Board consider this rezoning after it addresses the Comprehensive Plan Annual Review and water, sewer, and transportation issues.

Bob Cook advised that Mr. Ingram and Mr. Hagen could not be present, and he would represent the applicant.

He noted that, although the site does not have water and sewer and it might be a year or longer before "things are worked out," the applicant would like to "go ahead and get [the requested] rezoning. He advised that a site plan was submitted to the City for its consideration of the proposed single-family units. He noted that the trend in the other subdivisions on each side of the site is to split the easement and put part with the City and part with the County. He noted that the applicant would like to have both properties zoned for residential use because R3 would "give opportunity to do some site planning with the engineers." He described the applicant's concept for the area as professional offices along Port Republic

Road with duplexes or single family units and noted that the proposed development would be similar to Rosedale or Misty Meadows, with the same price ranges as those developments. He said the applicant proposed one entrance off Port Road, would "work with VDOT on widening Port Republic Road" and indicated that, "hopefully, the road would be designed to take care of any extra traffic." He reiterated that the "project would be down the road several years."

No objections were raised.

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RZ05-20, request of Christopher Seal, 115 Bear Mountain Lane, Elkton, to rezone 6.111 acres from A2 (General Agricultural) to RR-1 (Residential or Recreational) on a portion of tax parcel 146 (A) 1C. This site is located on the northwest side of Mill Lane (Route 624) approximately 0.4 mile northeast of Spotswood Trail (Route 33) in Election District #5. The Comprehensive Plan designates this area as Agricultural Reserve. RR-1 allows .4 dwelling units per acre. The applicant wants to sell two building lots.

On August 9, 2005, the staff recommended denial of the request, stating "The proposed site is surrounded on three sides by A2 zoning, and by the Shenandoah National Park, zoned C1, to the immediate east. Public water and sewer are not available. If approved this rezoning would set an undesirable precedent in the nearby area, and accelerate the division of agricultural land."

On September 7, 2005, the Planning Commission concurred with staff's recommendation and voted to recommend denial by a 4-0 vote.

Mr. Seal said his father and he bought the property in 2003, and during construction of the residences, the building costs increased. He said he would like to get back some of the financial investment and preferred not to wait a year to divide the property. He described the site as "one-half mile of undeveloped property which has become a dumping site for trash." He thought a residence would help beautify the community and prevent the illegal hunting of wildlife. He pointed out that the land is about 20 percent rocks and not suitable for agriculture.

No objections were raised.

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RZ05-22, request of Great Eastern Resort Corporation, c/o Ray Nicely, 3231 Peoples Drive, Harrisonburg, to rezone 4.284 acres from A2 (General Agricultural) to R-5 (Planned Residential) on tax parcel 128 (A) 119, located west of Ag Center Drive (private) approximately

1200 feet north of Resort Drive (Route 644) in Election District #5. The Comprehensive Plan designates this area as Community Residential. A building for the service and storage of Great Eastern Resort Corporation's refuse trucks would be constructed.

On August 16, 2005, staff recommended approval, noting "The proposed rezoning is compatible with the Comprehensive Plan and the existing Master Plan. The requested revisions would enable Great Eastern to provide service support for ongoing refuse service needs. This request is not expected to negatively impact the surrounding area."

On September 7, 2005, the Planning Commission concurred with staff's recommendation, and recommended approval of this request by a 4-0 vote.

Ray Nicely, Valley Engineering, explained the purpose of the request to provide a site to improve refuse/recycling services for the Resort and advised that it would not be open to the public but merely provide better service to the existing community.

Gene Morris asked about the creek shown on the map and the reason for R5 zoning.

Mr. Nicely said the "creek" was a drainage area, not a year-round stream. Ms. Henderson said the R5 zoning would make the site compatible with the rest of the community.

No objections were raised.

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At 8:10 p.m., Chairman Cuevas closed the public hearing and called the regular meeting back to order.

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Supervisor Floyd said he agreed with staff that the Mountain View Apartments application warranted further study; he moved that the request be tabled.

Supervisor Kyger agreed, noting that the utility easement was in question. He reminded the Board that the rear portion of the lots in the City overlap the Harrisonburg/Rockingham line, and the applicant would need rezoning of the portion on the County side so that the lots would not be separated between jurisdictions. He seconded the motion to table the request.

Nathan Miller, attorney for the applicant, offered to reduce the request from its original form and to ask for rezoning of just enough land to complete the lots in the City portion of the development. Supervisor Kyger agreed to amend his motion to consider only that portion of the site on the County side of the City/County line that would be necessary to complete the lots on the City side.

Supervisor Floyd, who seconded the original motion, agreed with the amendment to the motion.

The motion, as amended, to table RZ05-15, request of Mountain View Apartments, LLC, c/o Ingram-Hagen & Co., PLC, 140 Old Bridgewater Road, to rezone 25.155 acres from A2 (General Agricultural) to R3-C (General Residential with Conditions) carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE.

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Supervisor Breeden noted that the Seal property was bordered by a small development of manufactured homes with more single-family homes "just around the corner." He agreed with the applicant that the area is being used for illegal dumping of refuse. Chairman Cuevas pointed out that, in three years, the applicant could add two manufactured homes to the site by right.

On motion by Supervisor Breeden, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved RZ05-20, request of Christopher Seal, 115 Bear Mountain Lane, Elkton, to rezone 6.111 acres from A2 (General Agricultural) to RR-1 (Residential or Recreational) on a portion of tax parcel 146 (A) 1C. This site is located on the northwest side of Mill Lane (Route 624) approximately 0.4 mile northeast of Spotswood Trail (Route 33) in Election District #5.

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Noting that the Great Eastern Resort request would not add any traffic to the area, on motion by Supervisor Breeden, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved RZ05-22, request of Great Eastern Resort Corporation, c/o Ray Nicely, 3231 Peoples Drive, Harrisonburg, to rezone 4.284 acres from A2 (General Agricultural) to R-5 (Planned Residential) on tax parcel 128 (A) 119, located west of Ag Center Drive (private) approximately 1200 feet north of Resort Drive (Route 644) in Election District #5.

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**S05-53, REQUEST OF EAST GATE MINISTRIES.**

On motion by Supervisor Floyd, seconded by Supervisor

Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board removed from the table S05-53, request of East Gate Ministries, 3612 Cricket Lane, Bridgewater, for a maternity and post-delivery home for women; counseling center and office (like use to a group home) on property located on the northwest side of Cross Keys Road (Route 276) approximately 1/4 mile northeast of Port Republic Road (Route 253) in Ashby Magisterial District, Election District #3, zoned A2. Tax Map #140-(A)-2E. This application was tabled by the Board on 9-14-05.

Advising that he knew the area well and that he had "some real problems" with the application, Supervisor Floyd moved to deny the request. Supervisor Kyger seconded the motion, noting that, if the motion failed, he would bring forth a motion to approve the request.

The motion to deny the request failed by a vote of 1 to 4, voting recorded as follows: AHREND - NO; BREEDEN - NO; CUEVAS - NO; FLOYD - AYE; KYGER - NO`.

On motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by a vote of 4 to 1, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - NO; KYGER - AYE; subject to the following conditions, the Board approved S05-53, request of East Gate Ministries, 3612 Cricket Lane, Bridgewater, for a maternity and post-delivery home for women; counseling center and office (like use to a group home) on property located on the northwest side of Cross Keys Road (Route 276) approximately 1/4 mile northeast of Port Republic Road (Route 253) in Ashby Magisterial District, Election District #3, zoned A2. Tax Map #140-(A)-2E.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) A change of use building permit shall be required and shall be obtained prior to any use of these structures.
- (3) Permits shall also be obtained for any alterations to the buildings.
- (4) VDOT reserves the right to require future entrance upgrades should conditions warrant.
- (5) This permit is contingent upon applicant obtaining a new sewage disposal system permit if determined by the Health Department to be necessary. A copy of said permit shall be presented to the Community Development Department prior to deed exception approval.
- (6) On-premise advertising sign shall comply with the Rockingham County Code, and a permit shall be obtained for any sign.
- (7) There shall be no off-premise signs allowed unless all County and VDOT requirements for outdoor advertising signs are met.
- (8) Off-street parking shall comply with the Rockingham County Code.

- (9) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
- (10) Deed exception shall be approved by the County prior to issuance of any change of use permits for this facility.
- (11) This business shall not begin operation until such time as a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

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**S05-43, REQUEST OF NATURAL SAND & STONE CO., LLC (DENNIS MORRIS), 7341 TIGER CAMP ROAD, PORT REPUBLIC TO AMEND CONDITIONS ON EXISTING MINING OPERATION SPECIAL USE PERMIT.**

Chairman Cuevas asked staff to notify adjoining property owners that the following special use permit application would be taken off the table at the next meeting. S05-43, request of Natural Sand & Stone Co., LLC (Dennis Morris), 7341 Tiger Camp Road, Port Republic to amend conditions on existing mining operation special use permit on property located on the northeast side of Tiger Camp Road (Route 1604) approximately 1/2 mile northeast of Port Road (Route 253) in Stonewall Magisterial District, Election District #3, zoned A2. Tax Map #152-(A)-102. This application was tabled by the Board on 8-10-05.

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**PREFUNDING RESOLUTION NO. 05-27 FOR HILLYARD AND PENCE MIDDLE SCHOOL PROJECTS.**

On motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following Resolution No. 05-27 - Prefunding Resolution for Hillyard and Pence Middle School Projects - and authorized the School Board to go forward with expending the funds for renovations.

RESOLUTION OF BOARD OF SUPERVISORS OF ROCKINGHAM COUNTY, VIRGINIA DECLARING ITS INTENTION TO REIMBURSE THE COUNTY FROM THE PROCEEDS OF ONE OR MORE TAX-EXEMPT FINANCINGS FOR CERTAIN EXPENDITURES MADE AND/OR TO BE MADE IN CONNECTION WITH THE ACQUISITION, CONSTRUCTION RECONSTRUCTION,

EXPANSION, AND EQUIPPING OF CERTAIN CAPITAL PROJECTS FOR  
SCHOOL PURPOSES

**WHEREAS,** Rockingham County (the "County") is a political subdivision of the Commonwealth of Virginia and is organized and existing under the laws of the State of Virginia.

**WHEREAS,** the County and/or the Rockingham County Public Schools (collectively, the County) has paid/has caused to be paid, beginning no earlier than 60 days prior to adoption hereof and will pay/will cause to be paid, on and after the date hereof, certain expenditures (the "Expenditures"), in connection with the acquisition, construction, reconstruction, expansion, and equipping of capital projects for school purposes in the County, including but not limited to Pence Middle School and Hillyard Middle School (all capital projects for such purposes in the County being referenced herein as the "Project").

**WHEREAS,** the Board of Supervisors of the County (the "Board") has determined that those moneys previously advanced no more than 60 days prior to the date hereof and to be advanced on and after the date hereof to pay the Project related Expenditures are available only for a temporary period and it is necessary to reimburse the County for the Expenditures from the proceeds of one or more issues of tax-exempt bonds (the "Bonds").

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF ROCKINGHAM COUNTY, VIRGINIA, AS FOLLOWS:**

Section 1. The Board hereby declares the County's intent to reimburse the County with the proceeds of the Bonds for the Expenditures with respect to the Project made no earlier than 60 days prior to the adoption hereof. The County reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Bonds.

Section 2. Each Expenditure was and will be either (a) of a type properly chargeable to capital account under general federal income tax principles (determined in each case as of the date of the Expenditure), (b) a cost of issuance with respect to the Bonds, (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a party that is not related to or an agent of the County so long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the County.

Section 3. The aggregate maximum principal amount of the Bonds expected to be issued, in one or more series, for the Project is \$23,700,000.

Section 4. The County will make a reimbursement allocation, which is a written allocation by the County that evidences the County's use of proceeds of the Bonds to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The County recognizes that exceptions



are available for certain "preliminary expenditures," costs of issuance, certain de minimis amounts, and expenditures by "small issuers" (based on the year of issuance and not the year of expenditure).

It is the intent of the County that these provisions of an intent to reimburse as set forth in this Resolution shall comply with the requirements under Treasury Regulations Section 1.150-2 regarding reimbursement.

Section 5. This Resolution shall take effect immediately upon its passage.

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**COUNTY ADMINISTRATOR'S STAFF REPORT.**

The Board received and reviewed Mr. Paxton's staff report dated September 23, 2005, including information concerning coyote depredation, meetings concerning rezoning matters, Commonwealth Transportation Board, Community Services Board, resignation of Public Works Director (effective October 21).

On motion by Supervisor Breeden, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as requested by the School Board, the Board approved award of the bid for moving costs for the School Central Office to the low bidder, American of Virginia-Atlas Van Lines, from Waynesboro, Virginia, in the amount of \$23,774.00 from the General Fund Reserve.

On motion by Supervisor Breeden, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the Sheriff's request for an increase from \$300 to \$500 in the annual clothing allowance for undercover officers and authorized a supplemental appropriation of \$1,000 to 001-03102 (Sheriff) for this purpose, with funding from the contingency.

On motion by Supervisor Breeden, seconded by Supervisor Ahrend and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Finance Committee and as requested by the Registrar, the Board approved a supplemental appropriation in the amount of \$123,250 for the purchase of 30 AVC Edge voting machines, 1 Edge Card Activator and the cost to remove accessibility barriers to the polling places and/or additional voting equipment - \$123,250 GL Code: 001-01301-000-8001-000 (Help American Vote Act 2002). This amount will be provided by federal funding and requires no local match.

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**COUNTY ATTORNEY'S STAFF REPORT.**

Mr. Brown did not have a written report.

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**DEPUTY COUNTY ADMINISTRATOR'S STAFF REPORT.**

The Board received and reviewed Mr. King's staff report dated September 23, 2005, including information concerning the Technological and Industrial Park (TIP), the North Fork Sheaffer Modular Reclamation and Re-use System, and attendance at the ICMA conference.

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**PUBLIC WORKS DIRECTOR'S STAFF REPORT.**

The Board received and reviewed Ms. Hoover's staff report dated September 22, 2005, including information concerning Penn Laird Drive and Water Tower Road sewer (staff has delivered letters re easements); Lakewood/Massanetta Springs pump station (restoration work remains); McGaheysville WWTP (staff expects final study by mid-October); Phase III expansion of the landfill (completeness review from DEQ received); Grassy Creek Tank (contractor making good progress), Three Springs Water System Analysis; Countryside (reseeding has been accomplished); Pleasant Run Interceptor, Lilly Gardens (award letters to go out mid- to late-October).

At Supervisor Kyger's request, Chairman Cuevas asked staff to explore with the Soil & Water Conservation Service and the Army Corps of Engineers the possibility of cleaning out the spillways at the flood control dams in Briery Branch.

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**COMMUNITY DEVELOPMENT DIRECTOR'S STAFF REPORT.**

The Board received and reviewed Mr. Vaughn's staff report dated September 28, 2005, including information concerning the draft McGaheysville Area Plan (Planning Commission to hold public hearing in November, priority projects, tabled requests, and upcoming requests.

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**APPOINTMENT - HARRISONBURG-ROCKINGHAM DISABILITY SERVICES BOARD.**

On motion by Supervisor Ahrend, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board appointed Rita Alexander to the Disability Services Board for a three-year term expiring on December 31, 2008.

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**COMMITTEE REPORTS.**

The Board heard Committee Reports by Board members and staff.

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On motion by Supervisor Floyd, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Automobile Committee, the Board authorized the purchase of a 2001 Dodge 2500 from the low bidder, Mason Motors in Timberville, VA, for \$16,500 for use by the Utilities Foreman, Public Works Department.

Other bids were:

Dick Myers Chevrolet	2003 Chevrolet Silverado	\$21,950
Dallas Hollar Ford	2002 Ford F250	\$23,750

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On motion by Supervisor Breeden, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board received the following report from staff and as recommended by the Public Works Committee, approved the purchase of the trailer mounted vacuum excavator to be utilized by the Utilities Crew for removing debris from manholes, valve boxes, jetting clogged lines, etc., from the low bidder, Ditch Witch, in the amount of \$37,000

**Vacumm Excavator**

Staff solicited bids for a trailer mounted vacuum excavator to be utilized by the Utilities Crew for removing debris from manholes, valve boxes, jetting clogged lines, etc. The bids received were the following:

Bidder	Make/Model	Price	Jetter
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Special Fleet	Vac-Tron PMD-550DT	\$35,300	No
Special Fleet	Vac-Tron MC550DT	\$57,895	Yes
Ditch Witch	Ditch Witch FX-30	\$37,000	Yes
MSC Equipment	HiVac X-VAC X500	\$41,995	Yes

Since the jetter system was not fully included with the Vac-Tron PMD-550DT (only 100' of ½" hose was included. Valves, reel, sewer jet heads, and mounting was not included in the \$35,300 price.) The entire sewer jet system is included in the Ditch Witch model. Therefore, staff recommends awarding the purchase of the vacuum excavator to Ditch Witch. Staff budgeted \$128,500 for machinery and equipment for Utilities based on estimates of \$70,000 for a generator at Montevideo, \$15,00 for a used skid loader, \$34,000 for sewer vacuum, \$4,500 for valve actuator, and \$5,000 for line locator and appurtenances. Staff feels there are enough funds remaining in the total amount budgeted to cover the \$3,000 difference. **Therefore, staff recommends the purchase of the Ditch Witch vacuum excavator in the amount of \$37,000.**

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On motion by Supervisor Breeden, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board received the following report from staff and as recommended by the Public Works Committee, amended the Rules and Regulations for Water and Sewer Service as follows, based solely upon meter size, which is the current practice in the majority of Virginia localities.

**Rules and Regulations for Water and Sewer Service.** In an attempt to improve efficiency and provide consistency, staff is recommending the procedure for determining connection fees for water and sewer be changed. In the past, connection fees were determined by the estimated usage the developer provided. This estimated usage was then converted to equivalent residential connections (400 gpd). Obviously, the estimates left much room for inconsistencies. Staff recommends changing to a connection fee based solely upon meter size, which is the current practice in the majority of Virginia localities. The proposed fees are based on multipliers of a ¾" meter. For example, a 1" meter is sized for 50 GPM, which is 2.5 times the amount that a ¾" meter is sized for (20 GPM). Therefore, the connection fee for a 1" meter is 2.5 times the connection fee for a ¾" meter. Attached are the revised fees. **Staff recommends the revised Rules and Regulations for Water and Sewer Service be amended as proposed.**

**RULES AND REGULATIONS**

**FOR**

**WATER AND SEWER SERVICE**

**ROCKINGHAM COUNTY**

**VIRGINIA**

- Adopted September 29, 1975
- Amended July 27, 1977
- Amended September 11, 1978
- Amended February 11, 1987
- Amended June 14, 1989
- Amended August 8, 1990
- Amended June 12, 1991
- Amended May 27, 1992
- Amended April 28, 1993
- Amended May 24, 1995
- Amended June 26, 2002
- Amended July 28, 2004
- Amended June 8, 2005

## SECTION I - GENERAL

1. The purpose of this publication is to set forth the policy and rules and regulations which have been adopted by the Board of Supervisors, Rockingham County, Virginia and which are applicable to the public water and sewer facilities of Rockingham County. This publication establishes policy, rates, fees, and rules and regulations which govern the use of the public water and sewer facilities and provides standards for connection to these facilities.
2. Inquiries for information or clarification of any item herein pertaining to matters concerning public water facilities should be directed to the Department of Public Works, Rockingham County Administration Center, 20 East Gay Street, Harrisonburg, Virginia 22802. Telephone (564) 564-3020.

## SECTION II - DEFINITIONS

Unless the context specifically indicates otherwise, the meaning of terms used herein shall be as follows:

1. "Application for Service" shall mean the making of a written request for water and/or sewer service with the County.
2. "Billing Period" shall mean the basis used to bill for service in each area in which the County provides service.
3. "Board" shall mean Board of Supervisors, the governing body of Rockingham County, Virginia.
4. "Cessation of Service" shall mean cutting off of water meter and/or sewer service for non-payment of delinquent accounts.
5. "County" shall mean County of Rockingham, Virginia.
6. "Connection Requirements" shall mean the requirement of a separate connection for each dwelling unit, business and/or house unless the County shall authorize differently. Trailer Parks and Apartment Buildings shall be permitted to have a master water meter with the County to determine cost of connection by size water meter required. The County may require a sewage flow meter for purposes of billing for trailer parks and large developments. The Owner in these cases shall maintain all lines and facilities on his property.

7. "Customer" shall mean the party who has applied for water service at a premises.
8. "Delinquent Accounts" shall mean any account not paid within fifteen (15) days of billing date.
9. "Discontinuance of Service" shall mean the turning off of water upon request of the customer.
10. "Dwelling Unit" shall mean:
  - a. Each single family residential dwelling and each single family residential dwelling unit contained in an apartment building, in a duplex, in a two or more family residence, or in any building designed and used for residential purposes.
  - b. Each separate unit contained in any structure used for any purposes other than residential.
11. "Facilities of the County" shall mean any and all components and pertinent parts of the entire system of the water and sewer facilities under the jurisdiction of the County, such as water and sewer pipe lines and other appurtenances, water storage tanks, filtration or treatment facilities and pumping stations and testing laboratories, including these items and others now constructed, installed, operated or maintained by the County or any which may be approved and accepted in the future as additions or extensions of the system.
12. "May" is permissive.
13. "Water Deposit" and "Sewer Deposit" shall mean that deposit required in advance of service.
14. "Person" shall mean any individual, firm, corporation, association, society or group.
15. "Premise" shall mean any building, group of buildings or land upon which buildings are to be constructed which is or may be served by the facilities of the County.
16. "Reconnection" shall mean restoring of service to accounts where service has for some reason been discontinued.
17. "Service Connection or Water Lateral" shall be the pipe extending from a water main to the outlet side of the meter setting in the meter box at the property, right-of-way, or easement line, including the meter and meter box.
18. "Sewer Connection or Lateral" shall be the pipe extending from the sewer main or manhole to the property, right-of-way, or easement line.
19. "Shall" is mandatory.
20. "Water or Sewer Line or Main" shall mean a pipe or conduit for transporting water or sewage.
21. "Water Treatment or Filtration Plant" shall mean any arrangement of devices and structures used for the treatment of water.

### SECTION III - POLICY

1. It is the policy of the County to provide water and/or sewer service to any person, business, industry or area within Rockingham County where in the judgment of the County, it is economically feasible to do so.
2. In any area of the County where service may be provided, it will be the policy of the County to conform to and meet all requirements of all applicable State and Federal Regulatory Agencies and to apply all standards, rules and regulations and specifications of the County to those areas.

SECTION IV - FEES AND CHARGES

Effective 9/29/05

Meter Size	Water Connection Fee	Sewer Connection Fee	GPM	Maximum Connections
¾" Residential w/lateral installed	\$1,300	\$2,000	20	1
¾"	\$1,600	\$2,400	20	1
1"	\$4,000	\$6,000	50	4
1 ½"	\$8,000	\$12,000	100	10
2"	\$12,800	\$19,200	160	30
3"	\$25,600	\$38,400	300	75
4"	\$40,000	\$60,000	500	200
6"	\$80,000	\$120,000	1,000	600
8"	\$120,000	\$180,000	1,500	1,200
10"	\$200,000	\$300,000	2,500	3,000
12"	\$240,000	\$360,000	3,500	5,000

Effective 1/1/06

Meter Size	Water Connection Fee	Sewer Connection Fee	GPM	Maximum Connections
¾" Residential w/lateral installed	\$1,600	\$2,500	20	1
¾"	\$2,000	\$3,000	20	1
1"	\$5,000	\$7,500	50	4
1 ½"	\$10,000	\$15,000	100	10
2"	\$16,000	\$24,000	160	30
3"	\$32,000	\$48,000	300	75
4"	\$50,000	\$75,000	500	200
6"	\$100,000	\$150,000	1,000	600
8"	\$150,000	\$225,000	1,500	1,200
10"	\$250,000	\$375,000	2,500	3,000
12"	\$300,000	\$450,000	3,500	5,000

Should the water meter need to be increased in size, an additional connection fee will be required. The additional connection fee shall be the difference between the fee that was initially paid and the fee in effect for the larger meter at the time of the increase.

1.     IRRIGATION METERS

In areas where the residence is served by County water and sewer a separate meter for the purpose of irrigation will be installed upon payment of the connection fee and provided that no piping from this meter is connected within the residence. Irrigation meter service may be discontinued by the County during any given season due to drought or water supply limitations.

- A. 5/8" x 3/4" meter                      \$ 250
- B. larger meter                      \$250 plus \$500 per 1/4" in additional size above 3/4".

2. ROAD CROSSINGS - WATER

An additional fee of \$20.00 per linear foot of casing shall be assessed for work under paved surfaces and road crossings (open cut or bore) for water laterals 2 inches in diameter or less. Water laterals larger than 2 inches in diameter shall be run by the customer and at the customer's expense.

3. INDUSTRIAL

Special consideration shall be given new industrial waste dischargers. Essentially, consideration shall be based on population equivalent as to flow and waste characteristics. Exotic wastes shall be governed by Sewer Regulations adopted by the Authority.

4. ROAD CROSSINGS - SEWER

An additional fee of \$20.00 per linear foot shall be assessed for work under paved surfaces and road crossings (open cut or bore) for gravity sewer laterals 4 inches in diameter or less and pressurized laterals 2 inches in diameter or less. Gravity sewer laterals larger than 4 inches in diameter and pressurized laterals larger than 2 inches in diameter shall be run by the customer and at the customer's expense.

5. ROAD CROSSINGS - SEWER

In the event there is an existing connection for a property and the owner requests in writing that the County relocate the service, the fee shall be the actual cost of materials and labor to relocate the connection.

6. MONTHLY SEWER SERVICE CHARGES

- A. Residential of all types shall be billed monthly at the rate of \$3.19 per 1,000 gallons of water consumption.
- B. Commercial and Industrial shall be billed monthly at rate of \$3.19 per 1,000gallons of water consumption plus any surcharge for extra strength



waste or testing which may be levied by the  
Harrisonburg-Rockingham Regional Sewer Authority.

7. RESIDENTIAL SUMMERTIME SEWER USAGE

Beginning June 1, 2003, any residential sewer customer whose water consumption is metered as the basis for determining the monthly sewer service charge shall be eligible for reduced sewer service charges during the months of June, July and August to account for metered water that does not enter the sewer system. For those residential customers, sewer usage shall be the metered water usage for that month or the average for the previous months of November through April, whichever is less. The County may discontinue this policy during any given season due to drought or water supply limitations.

8. MONTHLY WATER SERVICE CHARGES

- A. First 3,500 gallons               \$ 9.63 - minimum bill
- Next 1,500 gallons               \$ 1.96 per 1,000 gallons
- All over 5,000 gallons       \$ 2.42 per 1,000 gallons
- B. Residential Connections - the minimum monthly service charge for residential connections shall be \$ 9.63 for each month service is received.

9. RECONNECTION FEES

A fee of \$10.00 after discontinuance of service and \$25.00 after cessation of service shall be required to restore service. No water service will be turned on until all fees and charges are paid. If service is to be provided beyond the normal workday (7:00 AM to 3:30 PM, Monday through Friday) the fee shall be \$35.00 in order to offset overtime labor expenses.

10. DEPOSIT - WATER

A deposit in the amount of \$30.00 shall be required for owner occupied structures. Tenants will be required to pay a deposit of \$45.00. The deposit will be retained by the County on a non-interest-bearing basis and will be refunded after a period of twelve consecutive months during which not more than one late payment has been received. The deposit shall be applied to the final bill of the customer upon discontinuance or cessation of service.

11. DEPOSIT - SEWER

A deposit in the amount of \$20.00 shall be required for owner occupied structures. Tenants will be required to pay a deposit of \$30.00. The deposit will be retained by the County on a non-interest-bearing basis and will be refunded after a period of twelve consecutive months during which not more than one late payment has been received. The deposit shall be applied to the final bill of the customer upon discontinuance or cessation of service.

12. LATE PAYMENT

All payment for service shall be due and payable within twenty (20) days of the billing date. A late payment charge of one (1) percent shall be applied to any balance carried forward to the next month.

**SECTION V - RULES FOR RENDERING OF WATER AND/OR SEWER SERVICE**

1. SERVICE CONNECTION

- A. Before a water or sewer service connection is provided, the owner of the premises to be supplied, or his duly authorized representative, shall apply for such service upon forms prescribed by the County and pay any required connection fee prior to obtaining a building permit for the premises. Upon approval of the application, and payment of the connection fee and other applicable charges, the County shall install the service connection. A separate service connection shall be required for each premises unless otherwise determined by the County. In the event the building permit expires, an additional connection fee will be required if that connection fee is higher than at the time of application. For a water or sewer connection that is for an existing dwelling, service must be connected within 6 months of application; if not, then an additional connection fee at the then applicable rate will be required if standard connection fees at the time of expiration are higher than at the time of connection.
- B. The County will make or have made all connections to its mains and will specify the location, size, kind and quality of all materials entering into the service connection.
- C. The service connection, including special connections for fire service or for service of a temporary nature, shall remain the property of the County and be under its sole control and jurisdiction and will be maintained by the County at its expense.
- D. The County will extend water and/or sewer laterals to the property or easement line or a distance of 50 feet, whichever is less. The owner shall be responsible for extensions beyond 50 feet.

2. CUSTOMER'S SERVICE PIPES

- A. The service pipe which shall be installed between the property or easement line and the place of consumption shall be furnished and installed by the customer at his expense and risk.
- B. The customer's service pipe and all connection and fixtures attached thereto shall be subject to the inspection and approval of the County before service is commenced.

- C. The customer's water service pipe shall be installed at least three feet below the surface of the ground in a trench which shall be at least ten feet in a horizontal direction from any other trench wherein are installed gas pipe, sewer pipe, or other facilities, public or private, unless otherwise specifically authorized or approved by the County.
- D. The customer shall install a stop and waste cock of a type approved by the Building Official on the water service pipe immediately inside the foundation wall of the building supplied, and so located as to be easily accessible to the occupants and to provide proper drainage for all of the pipe lines in the building.
- E. No fixture shall be attached to, or any branch made in, the service pipe between the meter and the water main.
- F. The customer at his expense and risk shall perform any repairs, maintenance, replacement or relocation necessary on the customer's service pipe or fixtures in or upon the customer's premises.

3. CROSS-CONNECTION AND BACK SIPHONAGE

- A. No fixture shall be attached No pipe or fixtures connected with the mains of the County shall also be connected with pipes or fixtures supplied with water from any other source. This is a state law and severe penalties result in violation.
- B. Piping systems supplying swimming pools or tanks shall be so arranged as to prevent water from re-entering the water distribution system by siphonage or other means. An independent supply pipe shall be provided in such a way that its discharge end is at least two diameters above the highest possible water level in the swimming pool or tank. The County shall approve all such installation.
- C. The plumbing system in all premises supplied from the County's water system shall conform to all applicable codes of Rockingham County.
- D. A requirement of the State Department of Health is that a cross-connection control and backflow prevention program be established and enforced. To accomplish this the County will make periodic inspections and make recommendations to eliminate the possibility of contaminating the water supply.

4. METERS AND METER INSTALLATIONS

- A. The County shall determine the location, type and size of meter to be installed.
- B. Meters will be furnished, installed and removed by the County and shall remain its property.
- C. Unless otherwise determined by the County, each premises shall be supplied through a separate meter, or if necessary and at the option of the County, through a separate battery of meters. Where a battery of meters is installed, the registrations of such meters shall be

combined for billing purposes and shall be subject to a Minimum Charge as negotiated between the County and the Customer. Where, however, a premises is supplied through more than one service line, unless otherwise provided in contracts entered into therefore, the registration of the meter installed on each such service shall be billed separately, subject to the Minimum Charge for each meter. Meters will be read to the nearest 100 gallons.

D. Meters will be maintained by the County at its expense insofar as ordinary wear is concerned, but damage to any meter due to causes arising out of or caused by the customer's facilities, operations, negligence or carelessness shall be paid for by the customer, except, however, the County shall be responsible for damage to meters due to freezing in outside meter vaults.

E. The customer shall promptly notify the County of any defect in or damage to the meter or its connection.

#### 5. METER TESTS AND TEST FEES

A. All meters will be accurately tested before installation. Meters will also be periodically tested in accordance with accepted practice. The County may at any time remove any meter for routine tests, repairs, or replacement.

B. The County shall upon written request of a customer if he so desires in his presence or that of his authorized representative, make without charge a test of the accuracy of the meter in use at his premises, and that the customer will agree to abide by the results of such test in the adjustment of disputed charges. A written report of the results of the test shall be furnished to the customer.

C. Whenever a test of a meter reveals it to have an average error above standards established by the American Water Works Association (AWWA), the County shall bill or refund to the customer, as the case may be, such percentage of the amount of bills, covering the consumption indicated by the meter for the previous six months, as the meter was found to be in error at the time of test, unless it can be shown from the records of either party that the error found has existed for a greater or lesser period, in which case the adjustment shall cover such actual period.

#### 6. BILLS FOR SERVICE

A. Customers are responsible for furnishing the County with their correct address. Failure to receive bills will not be considered an excuse for non-payment, nor permit an extension of the date when the account will be considered delinquent.

B. If bills are to be sent to an address other than the premises served, the County must be notified in writing by the customer of any change of address.

C. If requested in writing by the customer, the County will send bills to and will receive payments from agents or tenants. However, this accommodation

will in no way relieve the customer of the liability for all charges, the County shall not be obligated to notify the customer of the non-payment of bills by such agents or tenants.

D. Payments shall be made at the office of the Treasurer of Rockingham County, Rockingham County Administration Center, Harrisonburg, Virginia 22801, or at such other places as may be designated by the County from time to time.

E. The County reserves the right to correct any bills rendered in error.

F. Each "Premises" shall be billed separately for service.

G. If a meter should fail to register for any reason, an estimated bill will be submitted. Such bill shall be based on an average of the consumption shown by three (3) consecutive billing periods, or, in the case of a new customer, where previous consumption cannot be used for computing average, reasonably estimated consumption shall be utilized.

H. Meters will be read each month. Should meters not be able to be read due to being covered by snow or the like, estimated bill will be rendered as computed under 6.g. above.

I. It is the responsibility of the customer to assure the meter box is not covered during normal weather.

J. A requirement Bills for service shall be rendered monthly.

## 7. TERMS OF PAYMENT

A. Bills for service shall be due and payable when rendered.

B. If a bills is not paid within fifteen (15) days after the same shall become due and payable, and after notice properly given by the County to the customer of record, service may be discontinued and the meter removed by the County, and the deposit, if any, may be applied against such bill and any other arrears of the customer.

C. There shall be a lien upon the real estate for the amount of any rates, fees, and other charges made by the County to the owner or lessee or tenant of such real estate for the services rendered by the County to such real estate from and after the time when such rates, fees and other charges are due and payable, and for the interest which may accrue thereon.

## 8. CUSTOMER'S LIABILITY FOR CHARGES

A. Customer who has made application for or received service at a premises shall be held liable for all service furnished to such premises until such time as the customer properly notifies the County to discontinue the service on his account.

## 9. ABATEMENTS AND REFUNDS

There shall be not abatement of the Minimum Charges in whole or in part, by reason of the extended absence of the customer, unless service has been discontinued at his request, and no abatement shall be made for leaks or for water wasted by improper or damaged service pipes or fixtures belonging to the customer.

10. DISCONTINUANCE OF SERVICE

- A. Service may be discontinued by the County after five (5) days' notice for any of the following reasons:
- B. For willful or indifferent waste of water due to any cause.
- C. For failure to protect and maintain the service pipe or fixtures on the property of the customer in a condition satisfactory to the County.
- D. For molesting or tampering by the customer, or other with the knowledge of the customer, with any meter, connection, service pipe, curb stop, seal or any other appliance of the County controlling or regulating the customer's water supply.
- E. For failure to provide the County's employees free and reasonable access to the premises supplied, or for obstructing the way of ingress to the meter or other appliances controlling or regulating the customer's water supply.
- F. For non-payment of any account for water supplied or for any fee or charge accruing under these Rules and Regulations and the effective Schedules of Rates and Charges.
- G. For violation of any rule or regulation of the County.
- H. Discontinuing the supply of water to a premises for any reason shall not prevent the County from pursuing any lawful remedy by action at law or otherwise for the collection of moneys due from the customer.
- I. When water service to a customer has been terminated for any of the above stated reasons, other than temporary vacancy of the premises, it will be renewed only after the conditions, circumstances or practices which caused the water service to be discontinued are corrected to the satisfaction of the County and upon payment of all charges due and payable by the customer in accordance with these Rules and Regulations and the effective Schedules of Fees, Rates and Charges.

11. CROSS-CONNECTION CONTROL AND BACKFLOW PREVENTION

A. That Section 6.00 Cross-Connection and Backflow Prevention Control in Waterworks, Commonwealth of Virginia Waterworks Regulations is adopted as apart of these Rules and Regulations by reference.

B. Definitions

1. Air Gap Separation - The unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying pure water to a tank, plumbing fixture, or other device and the rim of the receptacle.
  2. Auxiliary Water System - Any water system on or available to the premises other than the waterworks. These auxiliary waters may include water from another purveyor's waterworks; or water from a source such as wells, lakes, or streams; or process fluids; or used water. They may be polluted or contaminated or objectionable, or constitute a water source or system over which the water purveyor does not have control.
- C. Backflow - The flow of contaminants, pollutants, process fluids, used water, untreated waters, chemicals, gases, non-potable waters into any part of a waterworks.
- D. Backflow Prevention Device - Any approved device, method, or type of construction intended to prevent backflow into a waterworks.
- E. Consumer - The owner or person in control of any premises supplied by or in any manner connected to a waterworks.
- F. Consumer's Water System - Any water system located on the consumer's premises, supplied by or in any manner connected to a waterworks.
- G. Contamination - Any introduction into pure water of microorganisms, wastes, wastewater, undesirable chemicals or gases.
- H. Cross-Connection - Any connection or structural arrangement, direct or indirect, to the waterworks whereby backflow can occur.
- I. Degree of Hazard - This is a term derived from an evaluation of the potential risk to health and the adverse effect upon the waterworks.
- J. Double Gate-Double Check Valve Assembly - An approved assembly composed of two single, independently acting check valves including tightly closing shutoff valves located at each end of the assembly and petcocks and test gauges for testing the watertightness of each check valve.
- K. Health Hazard - Any condition, device, or practice in a waterworks or its operation that creates, or may create, a danger to the health and well-being of the water customer.
- L. Interchangeable Connection - An arrangement or device that will allow alternate but not simultaneous use of two sources of water.
- M. Pollution - The presence of any foreign substance (chemical, physical, radiological, or biological) in water that tends to degrade its quality so as to constitute an unnecessary risk or impair the usefulness of the water.
- N. Pollution Hazard - A condition through which an aesthetically objectionable or degrading material

may enter the waterworks or a consumer's water system.

- O. Process Fluids - Any fluid or solution which may be chemically, biologically, or otherwise contaminated or polluted which would constitute a health, pollution, or system hazard if introduced into the waterworks. This includes but not limited to:
  - (a) Polluted or contaminated waters,
  - (b) Process waters,
  - (c) Used water originating from the waterworks which may have deteriorated in sanitary quality,
  - (d) Cooling waters,
  - (e) Contaminated natural water taken from wells, lakes, streams, or irrigation systems,
  - (f) Chemicals in solution or suspension, and
  - (g) Oils, gases, acids, alkalis, and other liquid and gaseous fluids used in industrial or other processes, or for fire fighting purposes.
- P. A requirement Pure Water or Potable Water - Water fit for human consumption and use which is sanitary and normally free of minerals, organic substances, and toxic agents in excess of reasonable amounts for domestic usage in the area served and normally adequate in supply for the minimum health requirement of the persons service.
- Q. Reduced Pressure Principle Backflow Prevention Device - A device containing a minimum of two independently action check valves together with an automatically operated pressure differential relief valve located between the tow check valves. During normal flow and at the cessation of normal flow, the pressure between these two check shall be less than the supply pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the check valves at less than the supply pressure. The unit must include tightly closing shut-off valves located at each end of the device, and each device shall be fitted with properly located lest cocks. These devices must be of the approved type.
- R. Service Connection - The terminal end of a service line from the waterworks. If a meter is installed at the end of the service, then the service connection means the downstream end of the meter.
- S. System Hazard - A condition posing an actual, or threat of, damage to the physical properties of the waterworks or a consumer's water system.



- T. Used Water - Any water supplied by a water purveyor from water works to a consumer's water system after it has passed through the service connection.
- U. Water Purveyor - An individual, group of individuals, partnership, firm, association, institution, corporation, municipal corporation, county, or authority which supplies water to any person within this State from or by means of any waterworks.
- (a) The County will cause inspections to be made of properties served by the waterworks where cross-connection with the waterworks is deemed possible. The frequency of inspections, and reinspections based on potential health hazards involved, shall be established by the County in the Cross-Connection Control and Backflow Prevention Program and as approved by the Virginia Department of Health.
  - (b) That the representative of the County shall have the right to enter at any reasonable time properties served by a connection to the waterworks of the County for the purpose of inspecting the piping system or systems for cross-connections. Upon request, the owner, or occupants, of property served shall furnish to the inspection agency pertinent information regarding the piping system or systems on such property.
  - (c) That the water purveyor may deny or discontinue the water service to a consumer if the required backflow prevention device is not installed. If it is found that the device(s) has been removed or bypassed or if a cross-connection exists on the premises, or if the pressure in the waterworks is lowered below 10 psi gauge, the purveyor shall take positive action to insure that the waterworks is adequately protected at all times. Water service to such premises shall not be restored until deficiencies have been corrected or eliminated in accordance with Commonwealth of Virginia Waterworks Regulations and to the satisfaction of the purveyor.
  - (d) That the potable water made available on the properties served by the waterworks shall be protected from possible contamination or pollution by enforcement of this ordinance and the Uniform Statewide Plumbing Code. Any water outlet which could be used for potable or domestic purposes and is not supplied by the potable system must be labeled as "Water Unsafe for Drinking" in a conspicuous matter.
  - (e) That this regulation is a supplement to the applicable plumbing codes.
  - (f) That any person or customer found guilty of violating any of the provisions of this regulation, or any written order of the County, in pursuance thereof, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than (\$10) or more than (\$250) for each violation. Each day upon which a violation of the provisions of this act shall occur shall be deemed a separate

and additional violation for the purposes of this resolution of regulation.

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**CLOSED MEETING.**

On motion by Supervisor Kyger, seconded by Supervisor Ahrend and carried by the following vote: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; and KYGER - AYE; the Board recessed the meeting from 9:00 to 9:45 p.m. for a closed meeting pursuant to Section 2.2-3711(A)7, regarding contractual matters.

At 9:45 p.m., Chairman Cuevas called the meeting back to order and the following motion was adopted.

MOTION: SUPERVISOR KYGER            RESOLUTION NO: X05-09  
SECOND: SUPERVISOR AHREND        MEETING DATE: SEPT. 28, 2005

**CERTIFICATION OF CLOSED MEETING**

WHEREAS, the Rockingham County Board of Supervisors has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by this Board of Supervisors that such Closed Meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Rockingham County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification resolution applies; and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed or considered by the Board of Supervisors.

VOTE:  
AYES:            AHREND, BREEDEN, CUEVAS, FLOYD, KYGER  
NAYS:            NONE  
ABSENT:        NONE

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**WATER AGREEMENT WITH CITY OF HARRISONBURG.**

On motion by Supervisor Kyger, seconded by Supervisor

Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board authorized the County Administrator and the County Attorney to finalize a water agreement with the City of Harrisonburg, meeting the following guidelines; staff is to bring the agreement back to the Board for final approval.

1. Change the area from north and east to anywhere around the City, that the City is able to deliver water. Which decision shall be at the sole discretion of the City.
2. Increase the allocation to 50,000 gallons per day with a provision to increase the amount by 100,000 gallons when 70% of the allocation is reached up to a maximum allocation of 1,000,000 per day.
3. The rate charged the County would be increased and the rate charged City customers in the County would be reduced by an amount what would allow the City to remain revenue neutral.

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**ADJOURNMENT.**

By consensus, the Board adjourned the meeting at 9:47 p.m.

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Chairman